UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1995/NGO/ 52
22 March 1995
ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Fifty-first session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International Committee for European Security and Cooperation, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 March 1995]

GE.95-12405

Human Rights Situation in Iraq and in the Mosul Vilayet* **

1. The *International Committee for European Security and Cooperation* traditionally has availed its *good offices* for the analysis, debate on and eventual resolution of conflicts of an international character, particularly those involving or eventually affecting European interests. When its governing body decided to concentrate its energies on the political, ethnic and religious problems of the area some called *Kurdistan,* while others refered to it as South-Eastern Turkey, *Mosul Vilayet* or Northern Iraq, it had not only looked at this area in terms of *Europe's strategic oil interests.* For this cross road of commercial and cultural exchanges between East and West was also known as the craddle of civilization, as the birth area of major religions. And the further its research and consultations progressed and penetrated the surface of this *world of 1001 nights,* the more the researchers found themselves confronted with a *multitude of gross human rights violations.* But the more they also learned to appreciate the history of this area and of its peoples as a source of inspiration for addressing, with a better vision, some contemporary human rights, economic and political problems which had festered and poisened the atmosphere for decades in that and other trouble spots of the world.

2. Through direct testimonies, the I.C.E.S.C. had become concerned about what appeared as a persistent pattern of gross violations of human rights in Iraq. This included violations of Iraq's *constitutive* minority protection and other international obligations. If Iraq was to retain its independence and continued existence as a sovereign State, there was no way around strict and unbroken observation of these permanent obligations. Iraq chose to ignore this. Its leaders had their chance. Yet they hardly ever missed an opportunity to demonstrate their capacity for excesses. They failed too many of their fundamental obligations for too long. They failed them dishonorably. And the family of nations owed it to itself to draw the proper conclusions.

---

* Reflecting the *mandate* given by the *Constitutive General Assembly of the Mosul Vilayet* with its *"Declaration of Separation from Iraq"* of 20 October 1992, this paper was prepared in cooperation with the *Good Offices Group of European Lawmakers* and its research branch, CORUM (POB 2580, 1211 Geneva 2), with the participation notably of B. and D.Baghistani, M.Best, D.Hariri, P.Keller, S.Keller, D.Kreuter Grant, P.Martin, D.Morrow-Patty, R.J.Parsons, A.Poulin, P.Querio, F.Ruiz, W.Simon, W.Spalding, C.Vieira dos Santos and P.Wainwright. The editor, J.A.Keller, was alone responsible for eventual errors and omissions. He wished to express his gratitude for the assistance and numerous services provided by the United Nations Office in Geneva, by the director of the United Nations Geneva Library and by the League of Nations archivist and their staff.

** This document is issued as received from the organization concerned.

3. One of the lessons of this failed experience was that if minority protection guarantees were to be *reliable* and to help resolve actual or future political trouble spots anywhere in the world, the beneficiaries of such guarantees should be given tangible instruments in order to effectively communicate related problems to the guaranteeing powers and obtain prompt redress. As repeatedly suggested by the *Special Rapporteur on the Situation of Human Rights in Iraq,* the answer might be *Human Rights monitors.* Duly nominated by the people concerned, these monitors would not only provide a permanent check on Iraq's application of the post-Second World War humanitarian instruments, but they would also help enforce Iraq's comprehensive and still binding *international minority protection obligations* of 1932 which - as the I.C.E.S.C Representatives repeatedly had pointed out in their statements to the Commission - Iraq incurred as a *permanently valid sine qua non condition* for its independence and continued existence as a sovereign State.

4. It was also important to note that Iraq's violations of its fundamental international obligations were neither new nor neglectable or any further tolerable. They went back to the very beginning of this artificially created State which was carved out of the debris of the Ottoman Empire. Indeed, *genocidal practices* were carried out against Assyrians in 1933, i.e. only one year after Iraq gained its independence. Most of the *Kurdish Jews* were driven out of Iraq after 1948. On the background of the *Algiers Agreement* of March 1975, genocidal practices were started in 1975 against the *Yezidi* as a *religious Kurdish minority.* As the *Special Rapporteur* had indicated in his report E/CN.4/1993/45 (paras 89-126), the genocidal practices against the Kurds as a whole had come to a peak in 1988 with the infamous *Anfal program* involving the destruction of over 4000 villages, including poison gas attacks against some Kurdish villages.

5. Furthermore, first-hand information obtained by the I.C.E.S.C. indicated that some 300000 Yezidi were still being kept in *7 concentration camps.* Reportedly, the decision had already been taken to forcefully dislocate them to God knows where - *as soon as the UN embargo will be lifted* (as part of the Anfal program, some 180000 other Kurds purportedly were also forcefully moved "South" and were never heard of again; see the annexed list of wantonly distroyed Yezidi villages, as compared to the two Yezidi villages Iraqi diplomats cared to admit to still exist).

6. And, of course, the *conditions of attachment* had never been met under which the League of Nations attributed the Mosul Vilayet in 1926 to the then still dependent Kingdom of Iraq rather than to Turkey. In fact, for the inhabitants of the *Mosul Vilayet,* the human rights situation had continually and gravely deteriorated ever since. The conditions for corresponding *external intervention on humanitarian grounds* clearly were spelled out as any "infraction or danger of infraction" of Iraq's internationally guaranteed minority protection obligations. On the background of the Special Rapporteur's already ten voluminous reports on human rights violations by Iraqi agents, the conclusion was inescapable that *these* conditions had long been fulfilled.

7. To the surprise of nobody then, none of the numerous UN resolutions on the human rights situation in Iraq really had made a dent on the behavior of the regime in place. As a justification for its abhorrent practice of mutilations, the Iraqi Government stated in its reply of 19 January 1995 (E/CN.4/1995/138, p.8) that *"the severest punishment of the death penalty was no longer adequate or a deterrent"* and that some of these new punishments, *"such as the amputation of a hand, are an application of Islamic law".* It was doubtful that outside Iraq many Muslim would wanted to be associated with such a reading or interpretation of the *Holy Koran,* and even though there were not too many clear voices to object, no Islamic scholar or religious leader was known to have felt comfortably about the fact that the Baa'thist regime of Iraq continuously abused the Islamic religion and its tenets in order to prolong the political survival of some criminal and bankrupt leaders.

8. What's more, and regardless where such atrocities occured, **the torture and mutilation of children marked a *low point of civilization*.** The testimonies that were pouring in showed ears and even a nose of a child cut off by Iraqi agents. The I.C.E.S.C. had participated in a programm providing for some of these children to come to Geneva for testimony before this Commission. **The case against the rogue regime of Baghdad had become such that a line had to be drawn by this Commission if it wanted to remain useful, credible and to serve as a deterrent against such human aberrations.** To these effects, the I.C.E.S.C. shared the recommendations which the *Good Offices Group of European Lawmakers* had previously addressed to the governments concerned and to those interested in prompt and effective changes of the human rights situation in Iraq.

9. The Commission on Human Rights was thus called upon to take note of the *international minority protection obligations* which Iraq solemnly entered into with its *Declaration* of 30 May 1932 (E/CN.4/367; E/CN.4/Sub.2/1992/NGO/27), providing, a.o.,

a) that "Full and complete protection of life and liberty will be assured to all inhabitants of Iraq without distinction of birth, nationality, language, race or religion",

b) that these and other minority protection stipulations *"constitute obligations of international concern and will be placed under the guarantee of the League of Nations"*,

c) that Iraq may not alter or abrogate them unilaterally, and

d) that in case of *"infraction or danger of infraction"* of any of these international minority protection guarantees, the *United Nations General Assembly*, in line with its Resolution 24 (I) of 12 February 1946 as the legal successor of the *League of Nations*, may now *"take such measures and give such directions as it may deem proper and effective in the circumstances"*.

10. Accordingly, the interested governments were in a position to take appropriate actions, e.g. by way of the Commission

a) *inviting* its Special Rapporteur and the General Assembly to consider the matter of *gross violations of human rights in Iraq* also in light of the rights and obligations the *United Nations* inherited from the *League of Nations* as the guarantor of the religious and other minority protection rights bestowed notably on the Assyrians, Kurds and Turkomans of the *Mosul Vilayet*, and to take urgently effective corrective measures and to give such directions as it may deem proper and effective in the circumstances;

b) *recommending* that the General Assembly request, on an urgent basis, an *Advisory Opinion* of the *International Court of Justice* on whether or not Iraq is still bound by the constitutive *Declaration of the Kingdom of Iraq* of 30 May 1932 and, in the event at the earliest opportunity, to attribute to the United Nations *Trusteeship Council*, or to another suitable United Nations body, the corresponding powers and functions referred to in its *Resolution 24 (I)* of 12 February 1946, i.e. those powers providing for the effective enforcement of said *international obligations* in those territories over which - in international law - **Iraq never acquired full sovereignty,** particularly in the *Mosul Vilayet* whose conditional attachment to Iraq may thus promptly be revoked, reversed or otherwise changed with appropriate unprejudicial *interim* measures (E/CN.4/1994/NGO/48), in accordance with the legitimate interests and aspirations of the peoples concerneyd, and in line with the applicable rights and UN Charter provisions; and

c) *inviting* the General Assembly and other involved United Nations bodies to take into consideration and enforce the existing and future international minority protection obligations as contributing instruments for security, stability and rehabilitation in the Near East and other parts of the world (E/CN.4/Sub.2/1993/NGO/27; E/CN.4/Sub.2/1993/NGO/29; E/CN.4/1994/NGO/54), and to provide for *direct* contacts between the involved United Nations bodies and *Special Representatives* which are duly appointed by the beneficiaries of these *international human rights guarantees*.

ANNEX

Following the *Algiers Agreement* of 1975, the Iraqi Government carried out what amounts to a predecessor to its notoriously *genocidal Anfal program* which the *Special Repporteur on the Situation of Human Rights in Iraq* has documented in his 1993 report (E/CN.4/1993/45, paras 89-126). It thus **destroyed between July and December 1975 the following Yezidi villages** and rounded up, confined and held ever since under quarantine some 300'000 Yezidi inhabitants in **seven concentration camps** situated near their ancestral villages[1] in the Shingal (Mosul) area.

Bakran				
Barane	Girr-e-Zirhe	Gund-e Hamde	Khana Sor	Servar
Borig	Girr Zarik	Sheikh Halaf	Khane Shifra	Shenanik
Depa	Gund-e Fakira	Gund-e Hauweria	Kolkan	Shkafta
Duhole	Gund-e Jaffriya	Gund-e Khidr Zohro	Koyso Kecik	Sikkenie
Fayada	Gund-e Khifsha	Gund-e Sheikh Khidr	Kullakhan	Simoka
Ganne	Gund-e Khinne	Gund-e-Shune	MamiseNakhsha Auty	Sinune
Gatre	Gund-e Miskova	Gund-ke-Ali Sorhe	Naniria	Sorka
Girr-e-Araba	Gund-e-Pir Majdin	Gund-ke Kushna	Nuhre	Teraf
Girr-e-Gaure	Gund-e Sheikh Baehri	Halike	Oyse	Tirbika
Girr-e-Jame	Gund-e Sheikh Beshar	Hamadan	Peeloni	Usifa
	Guh-bel	Karse	Rashd	Utjajime

Yezidi villages which still exist but are *"Arabicized"*

Ain Semi	Bosa	Jarachiya	Makubla (greater)	Neiltshapa
Ba'adra	Chorisa	Kandala	Makubla (little)	Sheichan
Bait Nar	Gabara	Karsafra	Mam Rasha	Sheikhka
Beristak	Issia	Mahmuda	Nasiriya	Taftiya

[1] 1. *Al Uruba* (original Kurdish name: Sorava); 2. *Al Andalusa* (Guh-bel); 3. *Al Yarmuk* (Burg); 4. *Al Kadissia* (Duhule); 5. *Hut-tin* (Dugirke); 6. Nahia; 7. *Al Tamim* (Khana Sor).